

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

BETTY J. STEINMAN, and
RICHARD STEINMAN,

Plaintiffs,

v.

SPINAL CONCEPTS, INC.,

Defendant.

ORDER
05-CV-774S

1. Plaintiffs have brought an action for personal injuries due to alleged defects in Defendant's product. On October 28, 2005, the case was removed to Federal Court.

2. On December 20, 2005, this Court referred the case to the Honorable Hugh B. Scott, United States Magistrate Judge, for all pretrial matters including Report and Recommendation on dispositive motions.

3. On September 28, 2007, Plaintiffs filed a Rule 37 Motion (Docket No. 34) seeking costs, attorneys' fees, and discovery sanctions against Defendant for failing to have a Rule 30(b)(6) representative available to testify at a July 2007 deposition in Austin, Texas.

4. On November 7, 2007, Judge Scott issued a Report and Recommendation (Docket No. 79) recommending that Plaintiffs' request for discovery relief and sanctions be denied.

5. No objections to the Report and Recommendation were received from either party within ten (10) days from the date of its service, in accordance with 28 U.S.C. § 636(b)(1)(C) and Local Rule 72.3(a)(3).

6. This Court has thoroughly reviewed this matter *de novo* and has considered Judge Scott's Report and Recommendation and the applicable law. Upon due consideration, this Court will accept Judge Scott's recommendation and deny Plaintiffs' request for discovery relief and sanctions for the reasons stated in the Report and Recommendation.

IT HEREBY IS ORDERED, that this Court accepts Judge Scott's November 7, 2007 Report and Recommendation (Docket No. 79) in its entirety, including the authorities cited and the reasons given therein.

FURTHER, that Plaintiffs' request for discovery relief and sanctions (Docket No. 34) is DENIED for the reasons set forth in the Report and Recommendation.

SO ORDERED.

Dated: January 7, 2008
Buffalo, New York

/s/William M. Skretny
WILLIAM M. SKRETNY
United States District Judge